

**REMARKS/ARGUMENTS**

Applicant thanks the Examiner for review of the present application. Applicant also notes the change of attorneys representing Applicant in this case. Claims 1-16 are currently pending in the application.

The Office Action of August 16, 2006, rejects Claims 1-16 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0148229 to Maxwell et al. ("the '229 Maxwell application").

Applicant provides the following remarks in response to the rejections of the final Office Action, requests reconsideration and withdrawal of the finality of the Office Action, and submits that the rejections of Claims 1-16 are respectfully traversed for the reasons which follow. Applicant has not amended any of Claims 1-16.

*Rejections Under 35 U.S.C. § 102(e)*

Applicant respectfully submits that the rejections of the Office Action, fail to address the antecedent basis for the application in the claims in relation to what application is run online. Rather, the rejections of the Office Action collectively equate the plug-in for online software purchasing and the software that is downloaded from the '229 Maxwell application to the application of the pending claims. The present invention and pending claims relate only to the software application that is downloaded and subsequently used online, not separately a piece of software that is used to facilitate the downloading of the software and the downloaded software as described in the '229 Maxwell application and relied upon in the rejections. For example, independent Claim 1 recites that "the service provider unit comprises: a memory for storing an application usable by the client both off-line and on-line; a port for receiving a request for the application from the client and for sending the application to the client; a processor for providing on-line use of the application for the client; a monitor for monitoring the on-line use of the application; a controller configured to control the processor to provide the on-line use of the application dependent on the monitoring; and the client comprising: a port for communicating with the service provider unit, configured to send the request to the service provider unit and to receive the application from the service provider unit; a processor for off-line running the application whenever desired by the user and for on-line running the application when desired by the user if allowed by the controller." (Emphasis added.) In the present invention and pending claims, the application that is downloaded from the service provider unit to the client is used online. By comparison, the '229 Maxwell application teaches that only the plug-in software is used online for purchasing software that is downloaded. The '229

Maxwell application does not teach or suggest that the same software that was downloaded is used online or any of the other related claim limitations of the application used online. In particular, nothing in the '229 Maxwell application teaches or suggests that the plug-in software used for purchasing and downloading software online itself is requested by a client and downloaded from a service provider unit. Similarly, nothing in the '229 Maxwell application teaches or suggests that any of the downloaded software is used online, that the service provider unit provides for online use of the downloaded software, or any of the other claim limitations of the application used online. Each of independent Claims 1 and 8-16 include limitations with antecedent basis between an application received from a service provider unit (or sent to a client) and the application being run online as permitted by the remote service provider unit monitoring the online use of the application. Further, for example, with regard to Claim 4, the Office Action indicates that the '229 Maxwell application teaches a system comprising a charging unit configured to collect a monetary charge for the sending of the application and for providing a certain amount of online use. While the '229 Maxwell application may suggest that the plug-in software used for purchasing and downloading software is configured to collect a monetary charge for the sending of an application, nothing in the '229 Maxwell application teaches or suggests that the online software purchasing system comprises a charging unit configured to collect a monetary charge for providing a certain amount of online use. Similarly, with regard to Claim 6, the Office Action indicates that the '229 Maxwell application teaches a system comprising a means for informing the user when the amount of available online use falls below a certain threshold. The Office Action cites to paragraph 0175 to support this allegation. However, paragraph 0175 merely discloses a display apparatus without any teaching or suggestion related to the display apparatus informing the user when the amount of available online use is falling below a certain threshold.

As such, Applicant respectfully submits that the final Office Action fails to present any *prima facie* rejections of anticipation because the '229 Maxwell application does not teach each and every element of any of the claims. While the '229 Maxwell application may teach or suggest similar features and functions related to downloading software, online operation, and user credits, the '229 Maxwell application does not teach or suggest each and every element of any of the claims, particularly with regard to proper interpretation of the antecedent basis of the application that is used online and the features and functionalities of the various elements and limitations of the claims in relation to that application. Accordingly, for at least the reasons presented above, Applicant submits that independent Claims 1 and 8-16 and dependent Claims 2-7 are patentable over the cited prior art. Applicant requests withdrawal of the finality of the final Office Action and allowance of the pending claims.

Appl. No.: 10/726,811  
Amdt. Dated 11/08/2006  
Reply to Office Action of August 16, 2006

Conclusion

In view of the foregoing comments, Applicants submit that all of the pending claims of the present application, as amended, are in condition for allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Christopher J. Gegg  
Registration No. 50,857  
Telephone No. 704-444-1024

**CUSTOMER NO. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111  
LEGAL02/30087036v1

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON NOVEMBER 8, 2006.**